

AMENDED IN ASSEMBLY MAY 20, 1996
AMENDED IN ASSEMBLY APRIL 16, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 3378

Introduced by Assembly Member Brown

February 23, 1996

An act to amend Sections 7512.5, 7516, ~~7517, 7570, and 7572~~ of, ~~to amend the heading of Title 8.7 (commencing with Section 7570) of Part 3 and~~ 7517 of, and to repeal Sections 7513, 7515, 7516.5, and 7516.8 of, the Penal Code, relating to correctional institutions.

LEGISLATIVE COUNSEL'S DIGEST

AB 3378, as amended, Brown. Correctional institutions: communicable disease.

Existing law sets forth procedures under which the chief medical officer, as defined, who serves a specified law enforcement agency or correctional institution, is authorized, and in some cases is required, to require HIV testing of an inmate or certain persons in custody. These provisions include procedures for the appeal of the chief medical officer's decision to a 3-person panel and the appeal of the panel's decision to the superior court.

This bill would delete the authority to appeal under these provisions and make conforming changes.

~~Existing law requires the chief of medical services of the Department of Corrections or the Department of the Youth~~

~~Authority, or his or her designee, to use every available means to ascertain the existence of, and to immediately investigate all reported or suspected cases of tuberculosis in the infectious stages and to ascertain the source of the infections.~~

~~This bill would extend application of this requirement to reported or suspected cases of hepatitis and AIDS.~~

~~Existing law authorizes the chief of medical services to inspect, examine, and quarantine or isolate inmates or wards known to be, or reasonably suspected to be, infected with tuberculosis in an infectious stage.~~

~~This bill would grant that authority to the chief of medical services for purposes of inmates or wards known to be, or reasonably suspected to be, infected with hepatitis.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The heading of Title 8.7 (commencing~~
2 ~~with Section 7570) of Part 3 of the Penal Code is amended~~
3 ~~to read:~~

4
5 ~~TITLE 8.7. EXAMINATION OF INMATES AND~~
6 ~~WARDS FOR COMMUNICABLE DISEASE~~

7
8 ~~SEC. 2.—~~

9 ~~SECTION 1.~~ Section 7512.5 of the Penal Code is
10 amended to read:

11 7512.5. In the absence of the filing of a report
12 pursuant to Section 7510 or a request pursuant to Section
13 7512, the chief medical officer, may order a test of an
14 inmate if he or she concludes there are clinical symptoms
15 of AIDS or AIDS-related complex, as recognized by the
16 Centers for Disease Control.

17 A copy of the decision shall be provided to the inmate,
18 and where the inmate is a minor, to the parents or
19 guardian of the minor, unless the parent or guardian of
20 the minor cannot be located.

21 ~~SEC. 3.—~~

22 ~~SEC. 2.~~ Section 7513 of the Penal Code is repealed.

~~SEC. 4.—~~

SEC. 3. Section 7515 of the Penal Code is repealed.

~~SEC. 5.—~~

SEC. 4. Section 7516 of the Penal Code is amended to read:

7516. (a) When a custodial officer or staff person of a correctional institution, observes or is informed of activity in a correctional institution that is classified as causing, or known to cause, the transmission of the AIDS virus, as described in subdivision (b), he or she may file a written report with the facility's chief medical officer which, in the case of city or county jails, shall be the county health officer.

(b) Reportable activities within a correctional institution for which a report may be filed pursuant to subdivision (a) include, but are not limited to, all of the following activities, if they could result in the transmission of AIDS, according to the standards provided for in this chapter:

(1) Sexual activity resulting in the exchange of bodily fluids.

(2) IV drug use.

(3) Incidents involving injury to inmates or staff in which bodily fluids are exchanged.

(4) Tampering with medical and food supplies or medical or food equipment.

(5) Tattooing among inmates.

(c) The medical officer may investigate the report, conduct interviews, and determine whether the situation reported caused the probable exchange of body fluids in a manner that could result in the transmission of HIV, utilizing the criteria set forth in Section 7511, and pose a danger to the health and safety of the institution's staff and inmate population.

If the chief medical officer concludes this may have occurred, he or she shall require HIV testing of any inmate which he or she deems necessary pursuant to the investigation.

(d) This section shall apply to situations involving individual inmates or group situations but shall not be

1 utilized to require testing of all inmates in a correctional
2 institution.

3 ~~SEC. 6.—~~

4 *SEC. 5.* Section 7516.5 of the Penal Code is repealed.

5 ~~SEC. 7.—~~

6 *SEC. 6.* Section 7516.8 of the Penal Code is repealed.

7 ~~SEC. 8.—~~

8 *SEC. 7.* Section 7517 of the Penal Code is amended to
9 read:

10 7517. Except as otherwise permitted by this title or
11 any law, any records, including decisions of a chief
12 medical officer, compiled pursuant to this chapter shall
13 be confidential.

14 ~~SEC. 9.— Section 7570 of the Penal Code is amended to~~
15 ~~read:~~

16 ~~7570. In enacting this chapter, the Legislature hereby~~
17 ~~finds and declares that tuberculosis, hepatitis, and AIDS~~
18 ~~are serious contagious diseases. It is vital to the health and~~
19 ~~safety of inmates, employees, and the public at large, to~~
20 ~~conduct appropriate examinations, testing, and~~
21 ~~treatment in order to control the spread of these diseases~~
22 ~~in California's institutions.~~

23 ~~SEC. 10. Section 7572 of the Penal Code is amended~~
24 ~~to read:~~

25 ~~7572. The chief of medical services, or his or her~~
26 ~~designee, shall use every available means to ascertain the~~
27 ~~existence of, and to immediately investigate all reported~~
28 ~~or suspected cases of, tuberculosis in the infectious stages,~~
29 ~~hepatitis, and AIDS and to ascertain the source or sources~~
30 ~~of the infections. In carrying out these investigations, the~~
31 ~~chief of medical services, or his or her designee, is hereby~~
32 ~~invested with full powers of inspection, examination, and~~
33 ~~quarantine or isolation of all inmates or wards known to~~
34 ~~be, or reasonably suspected to be, infected with~~
35 ~~tuberculosis in an infectious stage or hepatitis.~~

